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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014-0051, Sequence No. 4]

**Federal Acquisition Regulation; Federal Acquisition
Circular 2005-76; Introduction**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of interim and final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-76. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-76 and the specific FAR case number. For information pertaining to status or publication

schedules, contact the Regulatory Secretariat at 202-501-4755.

Rules Listed in FAC 2005-76

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (Interim)	2014-013	Loeb
II	Small Business Protests and Appeals	2012-014	Morgan
III	Allowability of Legal Costs for Whistleblower Proceedings	2013-017	Chambers
IV	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-76 amends the FAR as specified below:

Item I—Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (FAR Case 2014-013)

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement final rules issued on September 24, 2013, by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and affirmative action for veterans and individuals with disabilities. The DOL rules

provide clarification of mandatory listing of employment openings, the posting of notices, making notices accessible to persons with disabilities, and requiring nondiscrimination statements in contractor solicitations or advertisements for employees. The FAR clauses have been restructured to provide a citation to the applicable clause in the DOL regulations and include a statement that summarizes the contractors' top level obligations under each clause. There is no significant impact on small entities imposed by the FAR rules.

Item II--Small Business Protests and Appeals (FAR Case 2012-014)

This final rule amends the FAR to provide revised regulatory coverage for small business size and small business status protest and appeal procedures and to ensure that the FAR contains consistent and coherent protest and appeal procedures that are congruent with Small Business Administration regulations.

This final rule will have no direct negative impact on any small business concern, since it is aimed at preventing other than small business concerns from receiving or performing contracts set aside for small business concerns. This rule will indirectly benefit small business concerns by preventing awards to ineligible concerns, or shortening

the length of time other than small business concerns perform small business set-aside contracts.

Item III—Allowability of Legal Costs for Whistleblower Proceedings (FAR Case 2013-017)

This finalizes an interim rule that revised the cost principle at FAR 31.205-47 to implement sections 827(g) and 828(d) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239). The cost principle addresses the allowability of legal costs incurred by a contractor or subcontractor in connection with a whistleblower protection proceeding commenced by a contractor or subcontractor employee submitting a complaint of reprisal under the applicable whistleblower statute. The cost principle is revised in the final rule to allow reasonable legal proceeding costs in certain settlements. Because most contracts awarded to small businesses are awarded on a competitive, fixed-price basis, thus limiting their exposure to the cost principles, the impact of this interim rule on small businesses will be minimal.

Item IV—Technical Amendments

Editorial changes are made at FAR 4.605, 4.1601, and 32.009-1. The change at 32.009-1 shows the recent extension

of the policy to provide accelerated payment to small business subcontractors.

Dated: July 18, 2014.

William Clark,
Acting Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005-76 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-76 is effective **[insert date of publication in the Federal Register]** except for item II, which is effective **[insert date 30 days after publication in the Federal Register]**.

Dated: July 18, 2014.

Richard Ginman,
Director, Defense Procurement
and Acquisition Policy

Dated: July 18, 2014.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO,
Office of Acquisition Policy,
U.S. General Services Administration.

Dated: July 21, 2014.

William P. McNally,
Assistant Administrator for Procurement,
National Aeronautics and Space Administration.

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